

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

EPAS ID: PAT3826261

SUBMISSION TYPE:	NEW ASSIGNMENT	
NATURE OF CONVEYANCE:	CHANGE OF NAME	
CONVEYING PARTY DATA		
	Name	Execution Date
	IWALK, INC.	12/01/2015
RECEIVING PARTY DATA		
Name:	BIONX MEDICAL TECHNOLOGIES, INC.	
Street Address:	4 CROSBY DRIVE	
City:	BEDFORD	
State/Country:	MASSACHUSETTS	
Postal Code:	01730	
PROPERTY NUMBERS Total: 1		
Property Type	Number	
Application Number:	12551845	
CORRESPONDENCE DATA		
Fax Number:	(919)999-2798	
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>		
Phone:	919-636-4767	
Email:	slanney@kdbfirm.com	
Correspondent Name:	KACVINSKY DAISAK BLUNI PLLC	
Address Line 1:	50 DOAKS LANE	
Address Line 4:	MARBLEHEAD, MASSACHUSETTS 01945	
ATTORNEY DOCKET NUMBER:	8120BIO0102US	
NAME OF SUBMITTER:	SUSAN LANNEY	
SIGNATURE:	/Susan Lanney/	
DATE SIGNED:	04/12/2016	
Total Attachments: 28		
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Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE RESTATED CERTIFICATE OF "IWALK, INC.", CHANGING ITS
NAME FROM "IWALK, INC." TO "BIONX MEDICAL TECHNOLOGIES, INC.",
FILED IN THIS OFFICE ON THE FIRST DAY OF DECEMBER, A.D. 2015,
AT 3:50 O'CLOCK P.M.



4409573 8100
SR# 20151140377

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBULLOCK", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication: 10520002
Date: 12-01-15

PATENT
REEL: 038416 FRAME: 0846

**AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
IWALK, INC.**

State of Delaware
Secretary of State
Division of Corporations
Delivered 03:50 PM 12/01/2015
FILED 03:50 PM 12/01/2015
SR 20151136774 - File Number 4409573

iWalk, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "**Delaware General Corporation Law**"),

DOES HEREBY CERTIFY,

1. That the name of the corporation is iWalk, Inc. and that this corporation was originally incorporated pursuant to the Delaware General Corporation Law on August 11, 2009 under the name iWalk, Inc.

2. That the Board of Directors duly adopted the following resolutions proposing to amend and restate the Amended and Restated Certificate of Incorporation of the corporation, declaring said amendment and restatement to be advisable and in the best interests of the corporation and its stockholders, and authorizing the appropriate officers of the Corporation to solicit the consent of the stockholders therefor.

RESOLVED, that the Amended and Restated Certificate of Incorporation of the corporation be amended and restated in its entirety to read as follows:

FIRST: The name of this corporation is BionX Medical Technologies, Inc. (the "**Corporation**").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 65,000,000 shares of Common Stock, \$0.0001 par value per share ("**Common Stock**"), and (ii) 49,163,261 shares of Preferred Stock, \$0.0001 par value per share ("**Preferred Stock**").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation. Unless otherwise indicated, references to "Sections" or "Subsections" in this Article Fourth refer to sections and subsections of this Article Fourth.

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings); provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to the Certificate of Incorporation that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to the Certificate of Incorporation or pursuant to the Delaware General Corporation Law. There shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of the Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

B. CONVERTIBLE PREFERRED STOCK

Preferred Stock may be issued from time to time in one or more series, each of such series to consist of such number of shares and to have such terms, rights, powers and preferences, and the qualifications and limitations with respect thereto, as stated or expressed herein. 1,914,000 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated "**Series A Preferred Stock**", 307,656 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated as "**Series A-1 Preferred Stock**", 8,363,062 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated as "**Series B Preferred Stock**", 8,670,834 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated as "**Series C Preferred Stock**", 8,098,005 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated as "**Series D Preferred Stock**", and 21,809,704 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated as "**Series E Preferred Stock**," with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. The Series A Preferred Stock, the Series A-1 Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, and the Series E Preferred Stock are sometimes collectively referred to herein as the "**Convertible Preferred Stock**". Unless otherwise indicated, references to "Sections" or "Subsections" in this Part B of this Article Fourth refer to sections and subsections of Part B of this Article Fourth.

1. Dividends.

The Corporation shall not declare, pay or set aside any dividends on shares of Common Stock (other than dividends on shares of Common Stock payable in shares of Common Stock)

unless (in addition to the obtaining of any consents required elsewhere in the Certificate of Incorporation) the holders of the Convertible Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Convertible Preferred Stock (i) in an amount at least equal to the product of (A) the dividend payable on each share of Common Stock and (B) the number of shares of Common Stock issuable upon conversion of such share of Convertible Preferred Stock, calculated on the record date for determination of holders entitled to receive such dividend. The “**Series A Original Issue Price**” shall initially mean \$0.227273 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization. The “**Series A-1 Original Issue Price**” shall initially mean \$0.445632 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization. The “**Series B Original Issue Price**” shall initially mean \$0.722883 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization. The “**Series C Original Issue Price**” shall initially mean \$1.660213 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization. The “**Series D Original Issue Price**” shall initially mean \$2.058682 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization. The “**Series E Original Issue Price**” shall initially mean \$1.2796 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization. The Series A Original Issue Price, the Series A-1 Original Issue Price, the Series B Original Issue Price, the Series C Original Issue Price, the Series D Original Issue Price, and the Series E Original Issue Price, are sometimes referred to herein (individually or collectively, as applicable) as the “**Applicable Original Issue Price**”.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Payments to Holders of Convertible Preferred Stock.

(a) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation (each, a “**Liquidation Event**”) or a Deemed Liquidation Event, the holders of shares of each series of Convertible Preferred Stock then outstanding shall be entitled to be paid on a pari passu basis out of the assets of the Corporation available for distribution to its stockholders, and before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the Applicable Original Issue Price for the applicable series of Convertible Preferred Stock, plus any dividends declared but unpaid thereon (with respect to each series of Convertible Preferred Stock, each an “**Applicable Liquidation Preference Amount**” and collectively, the “**Liquidation Preference Amounts**”). If upon any such Liquidation Event or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Convertible Preferred Stock the full amount to which they shall be entitled under this Subsection 2.1(a), the holders of shares of Convertible Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares under this Subsection 2.1(a) were paid in full.

(b) In the event of any Liquidation Event or Deemed Liquidation Event of the Corporation, after the payment of all Liquidation Preference Amounts under Subsection 2.1(a), the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of the Convertible Preferred Stock and Common Stock, pro rata based on the number of shares held by each such holder, treating for this purpose all such securities as if they had been converted to Common Stock pursuant to the terms of the Certificate of Incorporation immediately prior to such Liquidation Event or Deemed Liquidation Event. Notwithstanding Subsection 2.1(a) and the first sentence of this Subsection 2.1(b), if the aggregate per share amount payable on a share of a series of Convertible Preferred Stock under Subsection 2.1(a) and the first sentence of Subsection 2.1(b) would exceed the Participation Cap (as defined below) of such series of Convertible Preferred Stock, the amount payable on such share shall instead be equal to the greater of (x) the Participation Cap of such series of Convertible Preferred Stock or (y) the amount that would be paid on such share of Convertible Preferred Stock if all shares of such series of Convertible Preferred Stock had been converted into Common Stock in accordance with this Certificate of Incorporation immediately prior to such Liquidation Event or Deemed Liquidation Event. **“Participation Cap”** means: (i) with respect to the Series E Preferred Stock, an amount per share equal to the sum of the Applicable Liquidation Preference Amount applicable to the Series E Preferred Stock, *plus* (B) \$2.5592 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series E Preferred Stock), *plus* (C) the product of (x) the per share amount of any dividends declared but unpaid on the Series E Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series E Preferred Stock), *times* (y) two (2); (ii) with respect to the Series D Preferred Stock, an amount per share equal to the sum of the Applicable Liquidation Preference Amount applicable to the Series D Preferred Stock, *plus* (B) \$4.117364 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series D Preferred Stock), *plus* (C) the product of (x) the per share amount of any dividends declared but unpaid on the Series D Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series D Preferred Stock), *times* (y) two (2); and (iii) with respect to each series of Convertible Preferred Stock other than the Series E Preferred Stock and the Series D Preferred Stock, an amount per share equal to the sum of (A) the Applicable Liquidation Preference Amount of such series of Convertible Preferred Stock, *plus* (B) \$3.320424 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such series of Convertible Preferred Stock), *plus* (C) the product of (x) the per share amount of any dividends declared but unpaid on the Series C Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such series of Convertible Preferred Stock and/or the Series C Preferred Stock), *times* (y) two (2).

2.2 Deemed Liquidation Events.

2.2.1 Definition. Each of the following events shall be considered a **“Deemed Liquidation Event”** unless the a majority of the 10% Preferred Holders (as defined below) (the **“Requisite Investors”**), elect otherwise by written notice sent to the Corporation at least fifteen (15) days prior to the effective date of any such event:

- (a) a merger or consolidation in which
 - (i) the Corporation is a constituent party or
 - (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation (provided that, for the purpose of this Subsection 2.2.1, all shares of Common Stock issuable upon exercise of Options (as defined below) outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities (as defined below) outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding immediately prior to such merger or consolidation and, if applicable, converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged); or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

For purposes of this Certificate of Incorporation, **10% Preferred Holder**” means an Investor, who together with its Affiliates, at the time of determination, holds at least ten percent (10%) of the then outstanding shares of Convertible Preferred Stock, as calculated on an as-converted to Common Stock basis. Solely for purposes of clarity, if an action requires the approval of the Requisite Investors under this Certificate of Incorporation, and there are then five (5) 10% Preferred Holders, approval by the Requisite Investors would require the approval of three (3) of the five (5) 10% Preferred Holders.

2.2.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 2.2.1(a)(i) above unless the agreement or plan of merger or consolidation for such transaction provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with Subsection 2.1 above.

(b) In the event of a Deemed Liquidation Event referred to in Subsections 2.2.1(a)(ii) or 2.2.1(b) above, if the Corporation does not effect a dissolution of the Corporation under the Delaware General Corporation Law within 90 days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Convertible Preferred Stock no later than the 90th day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause (ii) to require the redemption of such shares of Convertible Preferred Stock, and (ii) if the Requisite Investors so request in a written instrument delivered to the Corporation not later than 120 days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors) together with any other assets of the Corporation available for distribution to its stockholders (the "**Net Proceeds**"), to the extent legally available therefor, on the 150th day after such Deemed Liquidation Event, to redeem all outstanding shares of Convertible Preferred Stock at a price per share equal to the amount per share payable under Subsection 2.1 above. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Net Proceeds are not sufficient to redeem all outstanding shares of Convertible Preferred Stock, the Corporation shall redeem a pro rata portion of each holder's shares of Convertible Preferred Stock to the fullest extent of such Net Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Net Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. The provisions of Subsections 6.2 through 6.4 below shall apply, with such necessary changes in the details thereof as are necessitated by the context, to the redemption of Convertible Preferred Stock pursuant to this Subsection 2.2.2(b). Prior to the distribution or redemption provided for in this Subsection 2.2.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

2.2.3 Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the fair market value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The fair market value of such property, rights or securities shall be determined in good faith by the Board of Directors, except that any securities to be distributed to stockholders in a Liquidation Event or a Deemed Liquidation Event shall be valued as follows:

(a) The method of valuation of securities not subject to investment letters or other similar restrictions on free marketability:

- (i) if traded on a national securities exchange or national quotation system, then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the

thirty (30) day period ending three (3) days prior to the distribution;

- (ii) if actively traded over-the-counter, then the value shall be deemed to be the average of the closing bid prices over the thirty (30) day period ending three (3) days prior to the distribution; or
- (iii) if there is no active public market, then the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

(b) The method of valuation of securities subject to investment letters or other similar restrictions on free marketability shall be to make an appropriate discount from the market value determined above in Subsection 2.2.3.(a)(i), (ii) and (iii), to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

2.2.4 Allocation of Escrow. In the case of any Deemed Liquidation Event, if any portion of the consideration payable to the stockholders of the Corporation is placed into escrow and/or is payable to the stockholders of the Corporation subject to contingencies (including, without limitation, an earn-out payment), the agreement or agreements providing for such Deemed Liquidation Event shall provide that (a) the portion of such consideration that is not placed in escrow and not subject to any contingencies (the “**Initial Consideration**”) shall be allocated among the holders of capital stock of the Corporation in accordance with Subsection 2.1 above as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event and (b) any additional consideration which becomes payable to the stockholders of the Corporation upon release from escrow or satisfaction of contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Subsection 2.1 above after taking into account the previous payment of the Initial Consideration as part of the same transaction.

3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Convertible Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Convertible Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or as provided in this Certificate of Incorporation, holders of Convertible Preferred Stock shall vote together with the holders of Common Stock, and with the holders of any other series of Preferred Stock the terms of which so provide, as a single class.

3.2 Election of Directors. The number of directors that shall constitute the whole Board of Directors initially shall be seven (7) and thereafter shall be such number as from time to time shall be fixed by, or in the manner provided in, the Third Amended and Restated Voting Agreement dated on or about December 1, 2015 by and among the Corporation and the

parties identified therein, as the same may be amended or amended and restated from time to time, and By-laws of the Corporation. At such time and for so long as there are issued and outstanding at least 2,160,394 shares of Series E Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization), the holders of record of the shares of Series E Preferred Stock, exclusively and as a separate series, shall be entitled to elect one (1) director of the Corporation (the "**Series E Director**"). At such time and for so long as there are issued and outstanding at least 2,063,362 shares of Series D Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization), the holders of record of the shares of Series D Preferred Stock, exclusively and as a separate series, shall be entitled to elect one (1) director of the Corporation (the "**Series D Director**"). At such time and for so long as there are issued and outstanding at least 2,348,020 shares of Series C Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization), the holders of record of the shares of Series C Preferred Stock, exclusively and as a separate series, shall be entitled to elect one (1) director of the Corporation (the "**Series C Director**"). At such time and for so long as there are issued and outstanding at least 2,090,766 shares of Series B Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization), the holders of record of the shares of Series B Preferred Stock, exclusively and as a separate series, shall be entitled to elect one (1) director of the Corporation (the "**Series B Director**," and together with the Series E Director, Series D Director, and the Series C Director, the "**Preferred Directors**"). The holders of record of the shares of Common Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the "**Common Director**"). Any director elected as provided in the preceding five sentences may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of such stockholders. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Convertible Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation (the "**Remaining Directors**"). At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. A vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Subsection 3.2.

3.3 Convertible Preferred Stock Protective Provisions. At any time when at least ten percent (10%) of the aggregate number of authorized shares of any of the Series E Preferred Stock, Series D Preferred Stock, Series C Preferred Stock, Series B Preferred Stock, Series A-1 Preferred Stock and Series A Preferred Stock are outstanding, the Corporation shall not and shall not permit any subsidiary to, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Certificate of Incorporation) the written consent or affirmative vote of the Requisite Investors, and any such act without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(a) authorize, effect or consent to any Liquidation Event or merger or consolidation or any other Deemed Liquidation Event;

(b) amend, alter or repeal any provision of the Certificate of Incorporation or By-laws of the Corporation, whether by way of merger, consolidation or otherwise;

(c) create, or authorize the creation of, or issue (or reclassify) or obligate itself to issue shares of, any additional class or series of capital stock unless the same ranks junior to all shares of Convertible Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends, redemption rights or increase the authorized number of shares of Convertible Preferred Stock or any series thereof or make any change in the rights and preferences or benefits of the Convertible Preferred Stock or any series thereof, whether by merger amendment or otherwise;

(d) purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of the Convertible Preferred Stock or Common Stock of the Corporation (except (i) stock repurchased from former employees or consultants in connection with the cessation of their service relationship with the Corporation at the lower of fair market value or cost, which such repurchase has been approved by the Board of Directors, and (ii) as otherwise expressly authorized herein);

(e) increase or decrease the authorized number of directors constituting the Board of Directors;

(f) increase the number of shares reserved for issuance under the Corporation's option plan, institute any other equity rights plan or make any equity awards to employees or consultants outside of the Corporation's option plan;

(g) enter into any transaction with any stockholder, director, officer or employee of the Corporation, or any of their respective affiliates, family members or other associates, providing for a payment by or to the Corporation or any subsidiary in excess of \$20,000, or any incurrence, repayment, forgiveness or guarantee of debt, except for transactions related to employment or consulting entered into in the ordinary course of business and unanimously approved by the Board of Directors or the compensation committee thereof, or involving the reimbursement of expenses in the ordinary course of business;

(h) agree to or modify restrictions on debt financings, settle any material litigation, grant exclusive licenses to any intellectual property, incur material expenditures in excess of a budget approved by the Board of Directors or enter a new line of business;

(i) create, or authorize the creation of, or issue, or authorize the issuance of any debt security, or permit any subsidiary to take any such action with respect to any debt security, if the aggregate indebtedness of the Corporation and its subsidiaries for borrowed money following such action would exceed \$500,000 in the aggregate;

(j) incur or guarantee, directly or indirectly, or permit any subsidiary to incur or guarantee, directly or indirectly, any indebtedness or any operating or capital leases, in excess of \$500,000 in the aggregate;

(k) create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries) by the Corporation, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary or line of the business of the Corporation, or permit any direct or indirect subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such subsidiary, in each case, having a value in excess of \$100,000;

(l) enter into any agreement to hire or terminate the Chief Executive Officer of the Corporation;

(m) file a petition under any bankruptcy or insolvency law; or

(n) make or adopt any material change in the Corporation's line of business.

3.4 10% Series Convertible Preferred Stock Protective Provisions.

3.4.1 At any time when at least ten percent (10%) of the aggregate number of authorized shares of any of the Series E Preferred Stock, Series D Preferred Stock, Series C Preferred Stock, Series B Preferred Stock, Series A-1 Preferred Stock, or Series A Preferred Stock (as applicable, a "10% Series") are outstanding, the Corporation shall not and shall not permit any subsidiary to, either directly or indirectly by amendment, merger, consolidation or otherwise, purchase or redeem or pay or declare any dividend or make any distribution on, any shares of Convertible Preferred Stock other than (i) pro rata, based on the number of shares of Common Stock issuable upon conversion of such series of Convertible Preferred Stock, among the Series E Preferred Stock, Series D Preferred Stock, Series C Preferred Stock, Series B Preferred Stock, Series A-1 Preferred Stock and Series A Preferred Stock, or (ii) in accordance with Section 6, without (in addition to any other vote required by law or herein) the written consent or affirmative vote of the holders of at least a majority of the then-outstanding shares of each 10% Series, given in writing or by vote at a meeting, consenting or voting (as the case may be) as separate series.

3.4.2 At any time when at least ten percent (10%) of the aggregate number of authorized shares of the Series E Preferred Stock are outstanding, in addition to any other vote or approval required under the Corporation's Certificate of Incorporation or By-laws or as required by law, the Corporation shall not and shall not permit any subsidiary to, either directly or indirectly by amendment, merger, consolidation or otherwise, without the written consent of the holders of a majority of the outstanding shares of Series E Preferred Stock (the "**Requisite Series E Majority**"): (i) increase the authorized number of shares of the Series E Preferred Stock; or (ii) alter or change the powers, preferences or special rights of the Series E Preferred Stock in a manner that would require the vote of the Requisite Series E Majority pursuant to Section 242(b)(2) of the Delaware General Corporation Law.

3.4.3 At any time when at least ten percent (10%) of the aggregate number of authorized shares of the Series D Preferred Stock are outstanding, in addition to any other vote or approval required under the Corporation's Certificate of Incorporation or By-laws or as required by law, the Corporation shall not and shall not permit any subsidiary to, either directly or indirectly by amendment, merger, consolidation or otherwise, without the written consent of the holders of a majority of the outstanding shares of Series D Preferred Stock (the "**Requisite Series D Majority**"): (i) increase the authorized number of shares of the Series D Preferred Stock; or (ii) alter or change the powers, preferences or special rights of the Series D Preferred Stock in a manner that would require the vote of the Requisite Series D Majority pursuant to Section 242(b)(2) of the Delaware General Corporation Law.

4. Optional Conversion.

The holders of the Convertible Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

4.1 Right to Convert.

4.1.1 Conversion Ratio. Each share of Convertible Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Applicable Original Issue Price by the Applicable Conversion Price (as defined below) in effect at the time of conversion. As of the date of filing of this Certificate of Incorporation, the "**Series A Conversion Price**" shall initially be equal to \$0.227273, the "**Series A-1 Conversion Price**" shall initially be equal to \$0.445632, the "**Series B Conversion Price**" shall initially be equal to the \$0.722883, the "**Series C Conversion Price**" shall initially be equal to \$1.660213, the "**Series D Conversion Price**" shall initially be equal to \$2.058682, and the "**Series E Conversion Price**" shall initially be equal to \$1.2796. The Series A Conversion Price, Series A-1 Conversion Price, Series B Conversion Price, Series C Conversion Price, Series D Conversion Price, and Series E Conversion Price are sometimes referred to herein (individually or collectively, as applicable) as the "**Applicable Conversion Price**". Such initial Series A Conversion Price, and the rate at which shares of Series A Preferred Stock may be converted into shares of Common Stock, such initial Series A-1 Conversion Price, and the rate at which shares of Series A-1 Preferred Stock may be converted into shares of Common Stock, such initial Series B Conversion Price, and the rate at which shares of Series B Preferred Stock may be converted into shares of Common Stock, such initial Series C Conversion Price, and the rate at which shares of Series C Preferred Stock may be converted into shares of Common Stock, such initial Series D Conversion Price, and the rate at which shares of Series D Preferred Stock may be converted into shares of Common Stock, and such initial Series E Conversion Price, and the rate at which shares of Series E Preferred Stock may be converted into shares of Common Stock, in each case, shall be subject to adjustment as provided below.

4.1.2 Termination of Conversion Rights. In the event of a notice of redemption of any shares of Convertible Preferred Stock pursuant to Section 6, the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the last full day preceding the date fixed for redemption, unless the redemption price is not fully paid on

such redemption date, in which case the Conversion Rights for such shares shall continue until such price is paid in full. In the event of a Liquidation Event or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Convertible Preferred Stock.

4.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Convertible Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board of Directors. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Convertible Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Convertible Preferred Stock to voluntarily convert shares of Convertible Preferred Stock into shares of Common Stock, such holder shall surrender the certificate or certificates for such shares of Convertible Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Convertible Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Convertible Preferred Stock represented by such certificate or certificates and, if applicable, any event on which such conversion is contingent. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the later of (i) the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such certificates (or lost certificate affidavit and agreement) and notice, or (ii) the date of the occurrence of the event on which the conversion is contingent, if any, shall be the time of conversion (the "**Conversion Time**"), and the shares of Common Stock issuable upon conversion of the shares represented by such certificate shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time, issue and deliver to such holder of Convertible Preferred Stock, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof, a certificate for the number (if any) of the shares of Convertible Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, make payment in cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and make

payment of any declared but unpaid dividends on the shares of Convertible Preferred Stock converted.

4.3.2 Reservation of Shares. The Corporation shall at all times when the Convertible Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Convertible Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Convertible Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then-outstanding shares of the Convertible Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Applicable Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Convertible Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Applicable Conversion Price.

4.3.3 Effect of Conversion. All shares of Convertible Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Subsection 4.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of Convertible Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Convertible Preferred Stock accordingly.

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the Applicable Conversion Price shall be made for any declared but unpaid dividends on the Convertible Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5 Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Convertible Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Convertible Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4 Adjustments to Applicable Conversion Price for Diluting Issues.

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) **“Option”** shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) **“Original Issue Date”** shall mean the date on which the first share of Series E Preferred Stock was issued.

(c) **“Convertible Securities”** shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) **“Additional Shares of Common Stock”** shall mean all shares of Common Stock issued (or, pursuant to Subsection 4.4.3 below, deemed to be issued) by the Corporation after the Original Issue Date, other than (i) the following shares of Common Stock, and (ii) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (collectively **“Exempted Securities”**):

- (i) shares of Convertible Securities issued or Common Stock deemed issued pursuant to those certain Series E Preferred Stock Purchase Agreements, dated as of the Original Issue Date and December 1, 2015, by and among the Corporation and the other parties thereto, as the same may be amended, restated or otherwise modified from time to time;
- (ii) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on all series of Convertible Preferred Stock pro rata, based on the number of shares of Common Stock issuable upon conversion of such series of Convertible Preferred Stock;
- (iii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Subsection 4.5, 4.6, 4.7 or 4.8 below;
- (iv) up to 8,285,586 shares of Common Stock or Options (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares), issued to employees or directors of, or consultants or advisors to, the

Corporation or any of its subsidiaries pursuant to the Corporation's 2009 Stock Incentive Plan, as amended (the "**Equity Incentive Plan**"), or such greater number approved by the Board of Directors (including a majority of the Preferred Directors then serving on the Board of Directors), whether issued before or after the Original Issue Date (provided that any Options for such shares that expire or terminate unexercised or any restricted stock repurchased by the Corporation at cost shall not be counted toward such maximum number unless and until such shares are regranted as new stock grants (or as new Options) pursuant to the terms of the Equity Incentive Plan);

- (v) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security and all adjustments to the Applicable Conversion Price resulting from the issuance of such Options or Convertible Securities have been made in accordance with this Subsection 4.4; and
- (vi) shares of Common Stock, Options or Convertible Securities issued to strategic investors, banks, equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction approved by the Board of Directors, including a majority of the Preferred Directors then serving on the Board of Directors.

4.4.2 No Adjustment of Applicable Conversion Price. No adjustment in the Applicable Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the Requisite Investors agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3 Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or

Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Applicable Conversion Price pursuant to the terms of Subsection 4.4.4 below, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Applicable Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Applicable Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Applicable Conversion Price to an amount which exceeds the lower of (i) the Applicable Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Applicable Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Applicable Conversion Price pursuant to the terms of Subsection 4.4.4 below (either because the consideration per share (determined pursuant to Subsection 4.4.5 hereof) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Applicable Conversion Price then in effect, or because such Option or Convertible Security was issued before the Original Issue Date), are revised after the Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Subsection 4.4.3(a) above) shall be deemed to have been issued effective upon such

increase or decrease becoming effective. If the change in such Option or Convertible Security causes an adjustment pursuant to this provision and such Option or Convertible Security is then further changed as a result of the adjustments made pursuant to this provision, no further adjustment shall be made hereunder as a result of the further automatic change in such Option or Convertible Security.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Applicable Conversion Price pursuant to the terms of Subsection 4.4.4 below, the Applicable Conversion Price shall be readjusted to such Applicable Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Applicable Conversion Price provided for in this Subsection 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Subsection 4.4.3.) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Applicable Conversion Price that would result under the terms of this Subsection 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Applicable Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

4.4.4 Adjustment of Applicable Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4.4.3), without consideration or for a consideration per share less than the Applicable Conversion Price in effect immediately prior to such issue, then the Applicable Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "CP₂" shall mean the Applicable Conversion Price in effect immediately after such issue of Additional Shares of Common Stock;

(b) "CP₁" shall mean the Applicable Conversion Price in effect immediately prior to such issue of Additional Shares of Common Stock;

(c) "A" shall mean the number of shares of Common Stock outstanding and deemed outstanding immediately prior to such issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issue, whether or not vested, or upon conversion or exchange of Convertible Securities (including the Convertible Preferred Stock) outstanding immediately prior to such issue);

(d) "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued at a price per share equal to CP₁ (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP₁); and

(e) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

4.4.5 Determination of Consideration. For purposes of this Subsection 4.4, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(a) Cash and Property: Such consideration shall:

- (i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;
- (ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors; and
- (iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Subsection 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing

- (i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by
- (ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Applicable Conversion Price pursuant to the terms of Subsection 4.4.4 above, then, upon the final such issuance, the Applicable Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. In case the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of its outstanding Common Stock into a greater number of shares, the Applicable Conversion Price in effect immediately before that subdivision shall be proportionately reduced, and conversely, in case the outstanding shares of Common Stock shall be combined into a smaller number of shares, the Applicable Conversion Price in effect immediately prior to such combination shall be proportionately increased. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common

Stock, then and in each such event the Applicable Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Applicable Conversion Price then in effect by a fraction:

- (1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and
- (2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Applicable Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Applicable Conversion Price shall be adjusted pursuant to this subsection as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of Convertible Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of applicable Preferred Stock had been converted into Common Stock on the date of such event.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event provision shall be made so that the holders of the Convertible Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon, the kind and amount of securities of the Corporation, cash or other property which they would have been entitled to receive had the Convertible Preferred Stock been converted into Common Stock on the date of such event and had they thereafter, during the period from the date of such event to and including the conversion date, retained such securities receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this paragraph with respect to the rights of the holders of the Convertible Preferred Stock; provided, however, that no such provision shall be made if the holders of Convertible Preferred Stock receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities, cash or other property in an amount equal to the amount of such securities, cash or other property as they would have received if all outstanding shares of Convertible Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Subsection 2.3, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Convertible Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Subsections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Convertible Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of Convertible Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of the Convertible Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Applicable Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Convertible Preferred Stock.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Applicable Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than 10 days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Convertible Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Convertible Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Convertible Preferred Stock (but in any event not later than 10 days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Applicable Conversion Price then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Convertible Preferred Stock.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Convertible Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock, or any Deemed Liquidation Event; or

(c) any Liquidation Event.

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Convertible Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Convertible Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Convertible Preferred Stock and the Common Stock. Such notice shall be sent at least 10 days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

5.1 Trigger Events. Upon either (a) the closing of the sale of shares of Common Stock to the public, in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, on a U.S. stock exchange resulting in at least \$40,000,000 of gross proceeds to the Corporation and a pre-money valuation of the Corporation of at least \$150,000,000 (a “**Qualified IPO**”) or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the Requisite Investors (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the “**Mandatory Conversion Time**”), (i) all outstanding shares of Convertible Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective conversion rate and (ii) such shares may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Convertible Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Convertible Preferred Stock pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Convertible Preferred Stock shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice, and shall thereafter receive certificates for the number of shares of Common Stock to which such holder is entitled pursuant to this Section 5. At the Mandatory Conversion Time, all outstanding shares of Convertible Preferred Stock shall be deemed to have been converted into shares of Common Stock, which shall be deemed to be outstanding of record, and all rights with respect to the Convertible Preferred Stock so converted, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate, except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the last sentence of this Subsection 5.2. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or

accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. As soon as practicable after the Mandatory Conversion Time and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Convertible Preferred Stock, the Corporation shall issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Convertible Preferred Stock converted.

5.3 Effect of Mandatory Conversion. All shares of Convertible Preferred Stock shall, from and after the Mandatory Conversion Time, no longer be deemed to be outstanding and, notwithstanding the failure of the holder or holders thereof to surrender the certificates for such shares on or prior to such time, all rights with respect to such shares shall immediately cease and terminate at the Mandatory Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and to receive payment of any dividends declared but unpaid thereon. Such converted Convertible Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Convertible Preferred Stock accordingly.

6. Redemption.

6.1 Redemption. All shares of Convertible Preferred Stock shall be redeemed by the Corporation out of funds lawfully available therefor at a price equal to the Applicable Liquidation Preference Amount for such series of Convertible Preferred Stock (the “**Applicable Redemption Price**”), in three annual installments commencing not more than 60 days after receipt by the Corporation at any time on or after December 1, 2021 but prior to a Qualified IPO, from the Requisite Investors, of written notice requesting redemption of all shares of Convertible Preferred Stock (the date of each such installment and the date of any subsequent installments or redemption date pursuant to this Section 6.1 being referred to as a “**Redemption Date**”). On each Redemption Date, the Corporation shall redeem, on a pro rata basis in accordance with the number of shares of Convertible Preferred Stock owned by each holder, that number of outstanding shares of Convertible Preferred Stock determined by dividing (i) the total number of shares of Convertible Preferred Stock outstanding immediately prior to such Redemption Date by (ii) the number of remaining Redemption Dates (including the Redemption Date to which such calculation applies). If the Corporation does not have sufficient funds legally available to redeem on any Redemption Date all shares of Convertible Preferred Stock to be redeemed on such Redemption Date, the Corporation shall redeem a pro rata portion of each holder's redeemable shares of such capital stock out of funds legally available therefor, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the legally available funds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. Notwithstanding anything to the contrary set forth herein, any holder of Convertible Preferred Stock may waive its right to have all or any portion of its shares of Convertible Preferred Stock redeemed on a Redemption Date.

6.2 Redemption Notice. Written notice of the mandatory redemption (the “**Redemption Notice**”) shall be sent to each holder of record of Convertible Preferred Stock not less than 40 days prior to each Redemption Date. Each Redemption Notice shall state:

(a) the number of shares of Convertible Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;

(b) the Redemption Date and the Applicable Redemption Price;

(c) the date upon which the holder’s right to convert such shares terminates (as determined in accordance with Subsection 4.1); and

(d) that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Convertible Preferred Stock to be redeemed.

6.3 Surrender of Certificates; Payment. On or before the applicable Redemption Date, each holder of shares of Convertible Preferred Stock to be redeemed on such Redemption Date, unless such holder has exercised his, her or its right to convert such shares as provided in Section 4, shall surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Applicable Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Convertible Preferred Stock represented by a certificate are redeemed, a new certificate representing the unredeemed shares of Convertible Preferred Stock shall promptly be issued to such holder.

6.4 Rights Subsequent to Redemption. If the Redemption Notice shall have been duly given, and if on the applicable Redemption Date the Applicable Redemption Price payable upon redemption of the shares of Convertible Preferred Stock to be redeemed on such Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor, then notwithstanding that the certificates evidencing any of the shares of Convertible Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Convertible Preferred Stock shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Applicable Redemption Price without interest upon surrender of their certificate or certificates therefor, and each certificate shall be cancelled and retired.

7. Redeemed or Otherwise Acquired Shares. Any shares of Convertible Preferred Stock which are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or

transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Convertible Preferred Stock following redemption.

8. Waiver. Except as required by law or as otherwise provided herein (including the 10% Series Protective Provisions set forth in Subsection 3.3), any of the rights, powers, preferences and other terms of the Convertible Preferred Stock set forth herein may be waived on behalf of all holders of Convertible Preferred Stock by the affirmative written consent or vote of the Requisite Investors.

9. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Convertible Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the Delaware General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

FIFTH: Subject to any additional vote required by the Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the By-laws of the Corporation.

SIXTH: Subject to any additional vote required by the Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the By-laws of the Corporation.

SEVENTH: Elections of directors need not be by written ballot unless the By-laws of the Corporation shall so provide.

EIGHTH: Meetings of stockholders may be held within or without the State of Delaware, as the By-laws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the By-laws of the Corporation.

NINTH: To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the Delaware General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

TENTH: To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers

and agents of the Corporation (and any other persons to which Delaware General Corporation Law permits the Corporation to provide indemnification) through bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the Delaware General Corporation Law.

Any amendment, repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification.

ELEVENTH: The Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An “**Excluded Opportunity**” is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not and was not an employee or consultant of the Corporation or any of its subsidiaries, or (ii) any holder of Convertible Preferred Stock or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is or was an employee or consultant of the Corporation or any of its subsidiaries (collectively, “**Covered Persons**”), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person’s capacity as a director of the Corporation.

* * * * *

3. The foregoing amendment and restatement was approved by the holders of the requisite number of shares of the Corporation in accordance with Section 228 of the Delaware General Corporation Law.

4. That said Amended and Restated Certificate of Incorporation, which restates and integrates and amends the provisions of the Corporation’s Amended and Restated Certificate of Incorporation, has been duly adopted in accordance with Sections 242 and 245 of the Delaware General Corporation Law.

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IN WITNESS WHEREOF, the undersigned, being the President of the Corporation, hereby certifies that the facts herein above stated are truly set forth, and accordingly executes this Amended and Restated Certificate of Incorporation on this 1st day of December, 2015.

By: /s/ Charles Carignan
Name: Charles Carignan
Title: President and Chief Executive Officer